



Appeal Decision

Site visit made on 3 May 2023

by A Hunter LLB (Hons) PG Dip MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 July 2023

Appeal Ref: APP/D5120/W/22/3308896

**Old Bexley Equestrian Training Centre, Stable Lane to Keepers Cottage
Bridleway 250, Bexley DA5 2AW**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mrs Wendy Tucker on behalf of Old Bexley E.C. against the decision of the Council of the London Borough of Bexley.
 - The application Ref 22/00402/FUL, dated 21 February 2022, was refused by notice dated 5 September 2022.
 - The development proposed is access to the highway.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. On my site inspection I saw the new access to the highway the subject of this appeal has been created and was in use, I have determined the appeal on this basis.
3. The Council has advised that since their decision to refuse planning permission for this development, the Bexley Local Plan, April 2023 (BLP) has been adopted. The BLP has superseded the previous development plan. The Council have advised of the relevant new policies of the BLP in relation to this appeal, and the appellant has had the opportunity to comment upon them. Consequently, the appeal has been determined on this basis.

Main Issue

4. The main issue is the effect of the new access upon highway safety.

Reasons

5. The appeal site relates to an equestrian use, which has its main access onto Stable Lane. The appellant is seeking vehicular access onto Vicarage Road for access to the rear of the stables, which they submit cannot be accessed from an existing access on Stable Lane. Currently the gates are set back a short distance. There is no dropped kerb within the vicinity of the gates.
6. Vicarage Road is a classified road (A2018) with a 30-mph speed limit, which reduces to 20mph to one side of the access. The Council has described the road as a London Distributor Road. A pedestrian footpath runs parallel to either side of the carriageway on this part of Vicarage Road, and the footpath runs directly across the access the subject of this appeal. Vicarage Road is relatively straight in the Stable Lane direction, and in the opposite direction there is a

bend in the road. There is a street light column on the back edge of the pavement by the new access and some earth banking on the adjoining verges, together with trees and branches to either side of the access.

7. Although, only a snapshot in time, I saw on my site inspection that Vicarage Road was busy with traffic moving in both directions. This included a range of vehicles and highway users, including cars and large vehicles, pedestrians, and cyclists.
8. Despite the relatively straight stretch of road in the Stable Lane direction, visibility along Vicarage Road from the new access, particularly of highway users approaching the site on the nearest carriageway from where there is a bend in the road is restricted as a result of existing vegetation within the verge. I judged that drivers of vehicles trying to exit the site, would either not be able to clearly see vehicles approaching them or they would need to edge into the carriageway in order to see any approaching vehicles. As such, the restrictions to visibility along Vicarage Road would create conditions that are prejudicial to highway safety for the new access and lead to conflict with other users of the highway, such as drivers, cyclists and pedestrians.
9. The appellant's drawing indicates that visibility splays to the Highway Authority's standards could be provided. However, this drawing is not sufficiently detailed to show what, if any vegetation/landscaping would need to be removed and indeed whether this could be achieved, particularly as it appears that the verge is outside of the appellant's ownership. Against this background, a condition to secure the required visibility would not meet the tests for imposing conditions as set out in paragraph 56 of the National Planning Policy Framework (the Framework).
10. I note there is some discrepancy of the exact distance the existing gates are set back from the carriageway, in view of the likelihood of larger vehicles accessing the site, such as lorries or a tractor and trailer, it is more than likely that with the gates closed such vehicles would overhang the carriageway and footpath until the gates are opened. This would result in the new access creating conditions prejudicial to vehicle and pedestrian safety, including vulnerable road users such as cyclists, children, people with disabilities and horse riders. Such a situation could also result in vehicle collisions.
11. I note that the appellant has referred to the gates being re-positioned 20 metres back from the carriageway edge. This is not shown on the submitted drawings nor was this the case on my inspection. It is clearly open to the appellant to submit an alternative scheme to the Council, but I am unable to assess the proposal on this basis.
12. Given the above, I conclude that the new access would be harmful to highway safety and conflict with Policy DP24 of BLP and Policy T4 of The London Plan, The Spatial Development Strategy for Greater London, adopted March 2021, that amongst other things collectively seek to ensure proposals do not have a significant negative effect on the safety of highway users, including vulnerable users, such as pedestrians and cyclists, and do not increase road danger. The proposal would also be contrary to Bexley's Design and Development Control Guideline 5, Appendix A, that has a presumption against vehicular accesses on to London Distributor Roads, which includes the A2018, Vicarage Road. In addition, the dismissal of the appeal would be consistent with paragraph 111 of

the Framework which states development that will have an unacceptable impact upon highway safety should be refused.

13. The Council has referred to Policies SP1, SP5, SP10, and DP11 of the BLP as being relevant. Policy SP1 is an over-arching policy seeking sustainable development. Policies SP5 and DP11 are concerned with place shaping and design, and Policy SP10 is focussed upon strategic improvements to Bexley's transport network. I did not find these policies to be directly relevant to this appeal.

Other Matters

14. I note the appellant's comments that the gate previously existed without a dropped kerb and they wish to retain the existing gap in the hedge; that there have not been any accidents; they operate a successful business; and their comments that the access is wide enough to gain access from both sides. However, these points do not alter my conclusions. Furthermore, a planning application has been made for this access, which has to be considered on its planning merits.
15. The appellant has advised that this access is required for infrequent access to for collection of waste, deliveries, vets, emergencies and for removal of fallen stock. Be that as it may, if approved there would be no control over the frequency the access is used. Consequently, these points do not change my findings.
16. I saw that vehicle access from Stable Lane to the rear of the appeal site is not possible, particularly for large vehicles due to the arrangement of buildings at the site. I recognise the appellant's comments about the new access being required for animal welfare, health and safety and the viability of their business operations, although no evidence to substantiate these points have been submitted. However, I have assessed the proposal before me on its planning merits and the limited weight I have attached to these matters is not outweighed by the identified harm to highway safety. In addition, the appellant could submit a revised planning application accurately showing how they can provide the required visibility splays, together with the re-positioning of the gates as they have suggested.
17. The comments about the Council's handling of the application and the appellants expense and time trying to obtain planning permission are noted. However, these are matters between the appellant and the Council and are not relevant to the determination of the planning merits of the appeal proposal.

Conclusion

18. The proposal conflicts with the development plan taken as a whole and there are no other considerations, including the Framework that indicate a decision should be made other than in accordance with the development plan. I therefore dismiss the appeal.

A Hunter

INSPECTOR